

sensitive component, as long as the rate for that component is the same in both urban and rural areas, then there is no rate differential, and Section 254(h) does not apply. The fact that one customer's service is of a greater distance than another does not give rise to support provided the unit rate is the same. Accordingly, the Commission should clarify that only rate differences, not billing differences, are supported under the statute.

This clarification would also dispel the notion that toll-free access to Internet service providers could be supported under Section 254(h)(1)(A). Under this provision, a health care provider can request a telecommunications service.⁶⁷ If the health care provider intends to use the service to access an information service provider (assuming that the service has been found to be necessary to the provision of health care), then the relevant inquiry under the statute is whether the rate for the service in the rural area is the same for a comparable service in the urban area. The inquiry is not whether a customer in an urban area might use a different service to achieve a similar purpose. Thus, although an urban customer might use a local service or private line to access an information service provider while, in contrast, the rural customer might use a toll service, under Section 254(h)(1)(A) USF support would not be available for the rural health care provider unless its toll rate is higher than the toll rate charged for a similar service to an urban customer.

⁶⁷ For the same reasons set forth above in Section V.A. of these comments, USF support would not be available for the information service itself, but only for a telecommunications service provided by a telecommunications carrier.

There is another reason that the Commission should not provide for toll-free access to the Internet.⁶⁸ If Internet service providers receive such support, this will distort the marketplace dynamics which would normally form a large part of their decisions to extend their networks into rural areas for the benefit of all members of a rural community. Indeed, Internet service providers would have much less incentive to build out their own facilities (or to obtain telecommunications services from a telecommunications carrier) to that rural area. The Commission's rules should incent, not disincent, such reaching out on the part of all entities.

The universal service fund is not a mechanism for funding the build-out of new network capabilities and facilities. There is nothing in Section 254, in general, or in Section 254(h), in particular, that would permit such a use of the universal service support funds. Thus, services eligible for support must be those which are commercially available in the geographic area where the request is made. Even if the statute afforded the Commission the latitude to use the fund for such purposes, which it does not, such purposes would not be in the public interest and, hence, would still be inconsistent with the statute's requirements.⁶⁹

To the extent that the Joint Board and the Commission desire to see new technologies and services deployed in rural areas, it should look to implementing Section 706 of the Telecommunications Act. Section 706 is designed to have regulatory authorities take steps that encourage the deployment of new technologies and advanced networks. The examples of regulatory actions, i.e., price caps and forbearance, favor competition and the marketplace as the

⁶⁸ Of course, such access would need to be shown to be "necessary" for the provision of health care in the state.

⁶⁹ See 47 U.S.C. Section 254 (c)(1)(D)

means of achieving the public policy objectives. Allowing the marketplace to operate to determine competitively efficient outcomes will more likely achieve the types of network deployments envisioned by the Commission and Joint Board than will regulatory fiat. Further, they will be accomplished with less waste and at far less cost.

Moreover, if demand for telecommunications services for rural healthcare providers is stimulated by other USF mechanisms, such as the availability of services at comparable urban rates, telecommunications carriers will likely be incented to build out appropriate facilities needed to support these customers while, at the same time, providing infrastructure to support entire communities with more advanced services than may presently be available in some rural areas of some carriers. Indeed, in BellSouth's region, there are numerous examples of build-outs to rural areas already accomplished or underway.⁷⁰ Although these have not resulted from the provisions of the Act, they nevertheless provide useful examples of naturally occurring events which can and do take place in the marketplace to incent network infrastructure development.

Finally, a funding mechanism that supports network upgrades or build-outs would not be competitively neutral. Some telecommunications carriers have substantially built out their networks already and are not in need of USF support for additional build-out, assuming that USF

⁷⁰ For instance, a statewide network has been developed in Georgia for the purpose of offering high quality education and health care services to the non-urban citizens of the state. The Georgia state government provided the necessary critical mass of served locations to make it economically feasible for BellSouth to make the necessary investment to provide T-1 connectivity for video service. The North Carolina government initiated and is the anchor user for a highly advanced statewide network which has been developed to accommodate lower cost, lower transport speeds for the rural areas of the state for various needs. Kentucky recently awarded a contract to BellSouth to build a new Kentucky Information Highway that will be similar to these two networks. The network design will include provisions for telecommunications services to rural areas of the state to deliver high quality education and healthcare services.

support is appropriately limited to “necessary” services at levels no higher than DS1 service. For these telecommunications carriers to be required to provide financial support through USF contributions to aid competing carriers in building out their networks penalizes existing carriers for the fact that they have already accomplished the same build-out without such support. The market forces which would otherwise operate to incent and encourage development should be sufficient to assure proper infrastructure is available to meet the requirements, as well as the intent of Section 254(h)(1)(A). As indicated above, to the extent that the Commission sees a need for additional incentives, these can be established through Section 706 provisions.

VII. CONCLUSION

As is evident by the questions raised in the Public Notice, the Recommended Decision is incomplete. There are numerous implementation details that need to be developed before a universal service support plan can actually be tested against the requirements of Section 254. For example, the Recommended Decision proposes universal service support be extended only to primary residential lines. Differentiating between primary and secondary lines in a multiple carrier environment will not be a simple matter. Likewise, where an end user has multiple dwellings, distinguishing the primary line will be a challenge. Once the rules are established to make these determinations, establishing the administrative procedures and systems to record and track the information must be developed. These efforts present the Commission and the industry with formidable tasks not only in terms of quantity, but also complexity. Indeed, the cost to be recovered from the universal service fund due to implementing this recommendation could far

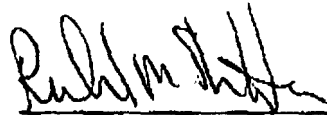
exceed the cost if all residential lines were supported. .

The details of the universal service fund that remain to be defined and developed are critical to the successful implementation of the statute's mandate for an explicit and adequate universal service fund. The Commission's purposes would be well served if it continues to solicit input as it proceeds with its deliberations and efforts to develop implementing rules with regard to all of the outstanding issues.

Respectfully submitted,

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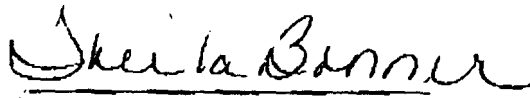
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CERTIFICATE OF SERVICE

I hereby certify that I have this 19th day of December, 1996 served the following parties to this action with a copy of the foregoing **COMMENTS ON THE UNIVERSAL SERVICE RECOMMENDED DECISION** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties on the attached service list.


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